



# CITY OF BRUNSWICK

1 W. Potomac Street • Brunswick, Maryland 21716 • (301) 834-7500

## MAYOR AND COUNCIL OF BRUNSWICK

### ORDINANCE NUMBER 439

**AN ORDINANCE OF THE MAYOR AND COUNCIL OF BRUNSWICK TO REPEAL IN ITS ENTIRETY CHAPTER 2, ARTICLE 3, SECTIONS 2-3101 - 2-3404, CODE OF ETHICS, OF THE CODE OF ORDINANCES OF THE CITY OF BRUNSWICK, AND TO REENACT CHAPTER 2, ARTICLE 3, SECTIONS 2-3101 - 2-3405, CODE OF ETHICS, OF THE CODE OF ORDINANCES OF THE CITY OF BRUNSWICK, AS PROPOSED BY THE CITY'S ETHICS COMMISSION.**

WHEREAS, the City of Brunswick's Ethics Commission prepared and submitted to the Council of Brunswick a proposed draft of Chapter 2, Article 3, Sections 2-3101 - 2-3405, Code of Ethics, of the Code of Ordinances of the City of Brunswick, attached hereto and incorporated herein as **Exhibit A**; and

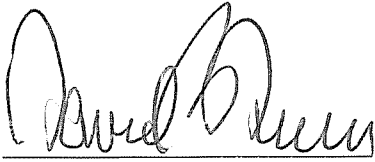
WHEREAS, the Ethics Commission's proposed draft of Chapter 2, Article 3, Sections 2-3101 - 2-3405, Code of Ethics (**Exhibit A**) was discussed and approved by the Council with the concurrence of the Mayor at its regular meeting held on July 11, 2006, which was properly advertised and conducted.

**SECTION I:** NOW THEREFORE BE IT ENACTED AND ORDAINED by the Mayor and Council of Brunswick, that pursuant to the authority granted to it by Article 23A of the Annotated Code of Maryland and Section 16-3, Section 16-24, and Section 16-38 of the Charter of the City of Brunswick that Chapter 2, Article 3, Sections 2-3101 - 2-3404, Code of Ethics, of the Code of Ordinances of the City of Brunswick is hereby repealed in its entirety, and the City's Ethics Commission's proposed draft of Chapter 2, Article 3, Sections 2-3101 - 2-3405, Code of Ethics, of the Code of Ordinances of the City of Brunswick, which is attached hereto and incorporated herein as **Exhibit A**, is hereby adopted and enacted.

**SECTION II:** In accordance with Article 25, Section 25.2 of the Code of Ordinances of the City of Brunswick, this Ordinance shall become effective ten (10) day after the date of the public hearing following its enactment by the Council and its approval by the Mayor, or on the tenth (10<sup>th</sup>) day following its enactment by the Council over the veto by the Mayor.

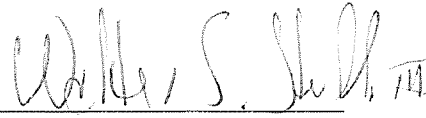
**PASSED** this 11th day of July, 2006 by a vote of 6 for; 0 against, 0 abstaining and 0 absent.

**ATTEST:**



David B. Dunn  
City Administrator

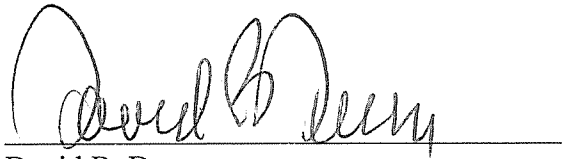
COUNCIL OF THE CITY OF  
BRUNSWICK

By: 

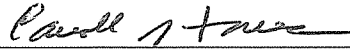
Name: Walter S. Stull, III  
Title: Councilman

**APPROVED** this 11<sup>th</sup> day of July, 2006.

**ATTEST:**



David B. Dunn  
City Administrator



Carroll A. Jones  
Mayor  
Date: July 11, 2006

## **EXHIBIT A**

### **Article 3. Code of Ethics**

#### **Title 1. General Provisions**

##### **Section 2-3101. Applicability**

The provisions of this Article apply to all elected or appointed officials and all employees of the City, except as hereafter provided.

##### **Section 2-3102. Definitions**

The words used in this Article shall have their normal accepted meanings, except as set forth below. The word “shall” is always mandatory.

Business Entity. Any corporation, general or limited partnership, sole proprietorship (including a private consultant operation), joint venture, unincorporated association or firm, institution, trust, foundation, or other organization, whether or not operated for profit.

City. The municipal corporation known as “Mayor and Council of Brunswick,” which constitutes the government of the City of Brunswick.

City Employee. Any person employed in any capacity by the City of Brunswick, whether full-time or part-time.

Commission. The Ethics Commission as described at Section 2-3401.

Gift. The transfer of anything of economic value regardless of the form without adequate and lawful consideration. Gift does not include the solicitation, acceptance, receipt, or regulation of political campaign contributions regulated in accordance with the provisions of the Elections Article of the Code, or any other provision of state or local law regulating the conduct of elections or the receipt of political campaign contributions.

#### **Title 2. Prohibitions**

##### **Section 2-3201. Conflicts of Interest**

City officials and employees to whom this Article is applicable shall not:

(a) Participate on behalf of the City in any matter that would, to their knowledge, have a direct financial impact, as distinguished from the public generally, on them, their spouse, child, or a business entity with which they are affiliated. Additionally, City officials and employees are prohibited from participating in matters where their parents and siblings have an interest;

(b) Hold or acquire an interest in a business entity that has or is negotiating a contract with the City or is regulated by their agency, except as exempted by the Commission where the interest is disclosed pursuant to Section 2-3301 of this Article;

(c) Be employed by a business entity that has or is negotiating a contract with the City or is regulated by their agency, except as exempted by the Commission pursuant to Section 2-3402 of this Article;

(d) Hold any outside employment relationship that would impair their impartiality or independence of judgment;

(e) Represent any party, for a contingency fee, before any City body;

(f) Within one (1) year following termination of City service, act as a compensated representative of another in connection with any specific matter in which he participates substantially as a City official or employee;

(g)(1) Solicit any gift.

(g)(2) Knowingly accept any gift, directly or indirectly, from any person that he knows or has reason to know:

(i) Is doing business with the City Council, as to members thereof, or, as to other officials or employees, with their office, agency, board, or commission; or

(ii) Has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of his official duty.

(g)(3) Unless a gift of any of the following would tend to impair the impartiality and the independence of judgment of the official or employee receiving it or, if of significant value, would give the appearance of doing so, or if the recipient official or employee believes, or has reason to believe, that it is designed to do so, Subsection (g)(2) does not apply to:

(i) Meals and beverages;

(ii) Ceremonial gifts or awards that have insignificant monetary value;

(iii) Unsolicited gifts of nominal value or trivial items of informational value;

(iv) Reasonable expenses for food, travel, lodging, and scheduled entertainment of the official or the employee for a meeting that is given in return for participation in a panel or speaking engagement at the meeting;

(v) Gifts or tickets or free admission extended to an elected official or employee to attend a professional or intercollegiate sporting event or charitable, cultural,

or political events, if the purpose of this gift or admission is a courtesy or ceremony extended to the office;

(vi) A specific gift or class of gifts that the City Council or the Commission exempts from the operation of this section upon a finding, in writing, that acceptance of the gift or class of gifts would not be detrimental to the impartial conduct of the business of the City and that the gift is purely personal and private in nature;

(vii) Gifts by a person related by blood or marriage, or a spouse, child, ward, financially dependent parent, or other relative who shares the official's or employee's legal residence, or a child, ward, parent, or other relative over whose financial affairs the person has legal or actual control; or

(viii) Honoraria.

(h) Use the prestige of his or her office to advance his or her own private interest or the private interest of another. The performance of usual and customary constituent services, without additional compensation, does not constitute the use of the prestige of office, within the meaning of this subsection. Use of the prestige of an office shall include, but not be limited to:

(1) The acting, and/or creating the appearance of acting, on behalf of the City by making any policy statement, and/or by promising to authorize or to prevent any official action of any nature, when the official or employee is not authorized to make such a statement;

(2) Representing his or her personal opinion to be the official position of the City or any agency of the City;

(3) Using and/or attempting to use his or her official position improperly to unreasonably request, grant, and/or obtain in any manner any unlawful and/or unwanted privileges, advantages, benefits and/or exemptions for him or herself, or others;

(4) Using, for immediate private financial gain and/or advantage, his or her City time and/or the City's staff, facilities, equipment and/or supplies to secure privileges and/or exemptions for himself or herself and/or others; or

(i) Use confidential information acquired in their official City position for their own benefit or that of another.

### **Title 3. Disclosure Requirements**

#### **Section 2-3301. Financial Disclosure**

(a) The City officials and employees listed in paragraph (c) of this section shall file annually, not later than January 31<sup>st</sup> of each calendar year during which they hold office or are employed, a schedule of each gift in excess of \$25 in value or a series

of gifts totaling \$100 or more from any one person received at any time during the year for which the disclosure statement is filed by the person making the disclosure statement, or by any other person at the direction of the person making the disclosure statement, from, or on behalf of, directly or indirectly, any person who does business with the City, provided, however, that neither gifts received from the spouse, children, or parents of the person making the disclosure statement need be disclosed. This schedule, as to each such gift, shall include:

- (i) The nature and value of the gift; and
- (ii) The identity of the person from whom, or on behalf of whom, directly or indirectly, the gift was received.

(b) Candidates for elective offices or appointees prior to accepting their position listed in subsection (c) of this section shall file disclosure statements consistent with the requirements of subsection (a) of this section at the time that they file their certificate of candidacy or are appointed.

(c) Officials and employees required to file:

- (1) The Mayor and each member of the City Council;
- (2) Officers, Department Heads/ Assistant Department Heads, and Senior Staff, including the following:

- (i) City Administrator;
- (ii) City Accountant;
- (iii) Superintendent Public Works/ Assistant Superintendent Public Works;
- (iv) Superintendent Wastewater/ Assistant Superintendent Wastewater;
- (v) Superintendent Water/ Assistant Superintendent Water
- (vi) Chief of Police/ Captain (Assistant Chief of Police);
- (vii) Senior Code Enforcement Officer;
- (viii) Parks and Recreation Director;
- (ix) Planning and Zoning Administrator;
- (x) Senior Development Review Planner;
- (xi) Public Works Administrator; and
- (xii) any employee authorized to negotiate contracts and/or purchases or make purchasing decisions for the City; and

(3) Members of the following current or future boards/ commissions:

- (i) Board of Appeals;
- (ii) Economic Development Commission;
- (iii) Historic Commission;
- (iv) Personnel Commission;
- (v) Planning Commission;

- (vi) any Commission that has approval authority or influence for land development, or contracts, purchasing, financial and human relations decisions for the City.
- (d) All persons subject to this section shall file a statement with the Commission disclosing any interest or employment the holding of which would require disqualification from participation pursuant to section 2-3201 of this Article sufficiently in advance of any anticipated action to allow adequate disclosure to the public.
- (e) Disclosure statements filed pursuant to this section shall be maintained by the Commission as public records available for public inspection and copying.

**Section 2-3302. Lobbying Disclosure**

(a) Any person who personally appears before any City official or employee with the intent to influence that person in the performance of his or her official duties, and who, in connection with such intent expends or reasonably expects to expend in excess of seventy-five dollars (\$75.00) on any one occasion or in a given calendar year in excess of one hundred fifty dollars (\$150.00) on food, entertainment or other gifts for each such official and/or employee shall file a registration statement with the Commission not later than January 15<sup>th</sup> of the calendar year or within five (5) days after first making such appearances.

(b) The registration statement shall include complete identification of the registrant and other person on whose behalf the registrant acts. It shall also identify the subject matter on which the registrant proposes to make these appearances.

(c) Registrants under this section shall file a report within thirty (30) days after the end of any calendar year during which they were registered, disclosing the value, date and nature of any food, entertainment or other gift provided to any City official or employee. When a gift to a single official or employee exceeds seventy-five dollars (\$25.00) in value, or a combination of gifts in any calendar year exceeds one hundred fifty dollars (\$100.00) in value, the official or employee shall also be identified.

(d) The registrations and reports filed pursuant to this section shall be maintained by the Commission as public records available for public inspection and copying.

**Title 4. Enforcement**

**Section 2-3401. Ethics Commission**

There shall be a City Ethics Commission that shall be composed of five members appointed by the Mayor and approved by the City Council. The members shall be appointed to terms that shall be staggered as follows: one member shall be appointed to a one-year term; two members shall be appointed to two-year terms; and two members shall be appointed to three-year terms. Terms shall begin on July 1 and end on June 30.

[Effective June 30, 2006, the current members' terms shall expire and said members shall be eligible for reappointment.] Vacancies shall be filled for the unexpired terms of any member whose term becomes vacant. All members must be residents of the City of Brunswick and registered to vote. The Commission shall annually elect a chairperson and vice-chairperson. Members shall serve without compensation, but provision may be made by the Mayor and City Council for necessary and proper expenses while performing official duties. The Commission shall be advised by the City Attorney or, if the City Attorney is disqualified from participating in a particular matter, by a substitute attorney appointed by the Mayor and City Council. The Commission shall have the following responsibilities:

- (a) To be the advisory body responsible for interpreting this Article and advising persons subject to it as to its application;
- (b) To devise, receive and maintain all administrative documents generated by this Article;
- (c) To conduct a public information and education program regarding the purposes and application of this Article;
- (d) To be responsible for hearing and deciding, on advice of the City Attorney, any complaint filed regarding an alleged violation of this Article by any person. The Commission will not render a decision with regard to anonymous complaints;
- (e) Any official or other person subject to the provisions of this Article may request the Commission for an advisory opinion concerning the application of this Article. The Commission shall respond promptly to such requests, providing interpretations of this Article based on the facts provided or reasonably available. Copies of these interpretations, with the identity of the subject deleted, shall be published and otherwise made available to the public in accordance with any applicable state law regarding public records;
- (f) Any person may file a complaint with the Commission alleging a specific violation of any of the provisions of this Article. These complaints shall be written and signed by the complainant, and, by a majority vote of the Commission, may be referred to the City Attorney for investigation and review. In such instances, the City Attorney shall submit an investigative report to the Commission within a reasonable time. All complaints must be filed within one year of the time the complainant either knew, or in the exercise of reasonable care should have known of the violation;
- (g) The Commission, by a majority vote, may initiate an investigation of a specific violation of any of the provisions of this Article. An investigation shall be conducted in accordance with the procedures provided in subsection (f) of this section;
- (h) If after receiving an investigative report, the Commission determines that there are insufficient facts upon which to base a determination of a violation, the Commission may dismiss the complaint. If there is a reasonable basis to believe that a violation has occurred, then the subject of the complaint or investigation shall be afforded



an opportunity for a hearing conducted on the record. Any final determination resulting from the hearing shall include findings of fact and conclusions of law;

(i) Upon a finding of a violation, the Commission may take any enforcement action provided for in accordance with Sections 2-3403 and 2-3404 of this Article. After a complaint is filed and until a final determination from the Commission, all actions regarding a complaint shall, to the extent possible, be treated confidentially;

(j) The Commission, through the City Attorney, may issue subpoenas to compel the attendance of witnesses and production of documents at its proceedings. The Commission may administer oaths at its hearings.

#### **Section 2-3402. Exemptions and Modifications**

The Commission may grant exemptions and modifications to the provisions of Sections 2-3201 and 2-3301 of this Article if it determines that application of those provisions would:

- (a) Constitute an unreasonable invasion of privacy;
- (b) Significantly reduce the availability of qualified persons for public service;
- (c) Not be required to preserve the purposes of this Article; and
- (d) Not require strict enforcement where it is found that the interest of the official and/or employee is too remote or insubstantial to affect the integrity of his public act.

#### **Section 2-3403. Cease and Desist Orders**

The Commission may issue a cease and desist order against any person found to be in violation of this Article and may seek enforcement of such an order in the Circuit Court for Frederick County, Maryland.

#### **Section 2-3404. Disciplinary Action**

(a) With respect to any person found to be in violation of this Article, the Commission has the following powers:

- (1) Issue a cease and desist order pursuant to Section 2-3403;
- (2) Impose a fine of up to one thousand dollars (\$1,000.00);
- (3) Void an official action taken by an official or employee when the action was taken in violation of the ethics law; and/or
- (4) Order restitution.

(b) The Commission may seek compliance with an order by filing an action for injunctive or other relief in the Circuit Court for Frederick County, Maryland.

(c) An employee found to have violated this Article may be subject to disciplinary or other appropriate personnel action, including suspension of salary or other compensation.

**Section 2-3405. Removal of Ethics Commission Member**

A member of the Commission may be removed by the City Council, after a hearing, for:

- (a) neglect of duties;
- (b) misconduct in office;
- (c) a disability that renders the member unable to discharge the powers and duties of office; or
- (d) a violation of this Article.